

REMARKS

Currently, claims 23-36 remain pending in the present application, including independent claim 23. As shown above, independent claim 23 has been amended to clarify that the quaternary amine acrylate polymer is a quaternary amine acrylate hydrogel polymer. Also, Applicants have submitted a corrected Fig. 2 showing reference numeral 10.

The Office Action rejected independent claim 23 under 35 U.S.C. §103 in view of U.S. Pat. No. 6, 287,285 to Michal, et al. As discussed in detail in Applicants' previous response of March 27, 2006, Michal, et al. describes two different embodiments of methods of coating a medical device with a hydrophilic agent that is lubricious against biological tissue. The hydrophilic coating is bound to the device surface due to the grafting component used alone or in combination with the binding component. Col. 5, ll. 48-53. However, Michal, et al. fails to disclose or suggest a lubricious coating comprising a quaternary amine acrylate hydrogel polymer that has been cross-linked to a multi-functional monomer, as required by independent claim 23.

In fact, referring to the attached Decision on Appeal in the present application's parent application serial no. 10/325,443, the Board of Patent Appeals and Interferences (Administrative Patent Judges Warren, Timm, and Smith) states that:

"The sole applicable disclosure of "2-aminoethyl methacrylate" in Michal '285 is with respect to the embodiment at col. 7, l. 57, to col. 8, l. 13, particularly, col. 8, l. 2. In this disclosure, the material is described as "a (co)monomer" for a hydrophilic agent top coat. However, this is in the context of "the binding component comprises an aldehyde compound and the top coat is a compound having amine groups" (col. 7, ll. 57-59). We find that one of ordinary skill in this art would have recognized from this embodiment that the reaction of the amine and aldehyde functional groups would result in imine moieties, as is well known in the organic chemistry arts, which moieties in the disclosure of Michal '285 crosslink the binding component and the polymeric top coat (see also col. 6, l. 65, to col. 7, l. 3).

Thus, even if a number of amino groups remain unreacted in the polymeric top coat and may be protonated as the examiner finds, there is

no showing on this record that the same would result in a hydrogel polymer and certainly not a hydrogel quaternary amine acrylate polymer..." Pg. 7, lines 11-23.

Applicants recognize that the Examiner in the present application is not bound by the decision referenced and quoted above; however, Applicants should be entitled to a basic consistency from the Patent Office when interpreting Michal, et al.

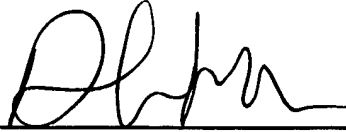
As such, Applicants respectfully submit that independent claim 23 is patentable over Michal, et al., either alone or in any combination. Applicants also respectfully submit that for at least the reasons indicated above relating to the corresponding independent claim, the pending dependent claims patentably define over the references cited. However, Applicants also note that the patentability of the dependent claims certainly does not hinge on the patentability of the independent claim. In particular, it is believed that some or all of these claims may possess features that are independently patentable, regardless of the patentability of the independent claim.

Finally, the Office Action provisionally rejected claims 23-36 are the ground of non-statutory obvious-type double patenting in view of copending application no. 10/325,443. Applicants agree to consider filing a terminal disclaimer to obviate this rejection if it becomes necessary.

Applicants respectfully submit that the presently pending application is in complete condition for allowance. However, Examiner Zacharia is invited and encouraged to contact the undersigned should any further questions or concerns arise after consideration of this response.

Respectfully submitted,

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A handwritten signature in black ink, appearing to read 'Alan R. Marshall', written over a horizontal line.

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Date

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